

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

July 8, 2010

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

LOD No. S-27,883

Hawaii

Consent to Assignment of Grant of Non-Exclusive Easement, John Martin Davis,  
Assignor, to Miller Aquino Picardal, Assignee, Olaa, Puna, Island of Hawaii, Tax  
Map Key: 3rd/ 1-6-13: por.

APPLICANT:

John Martin Davis, Assignor, to Miller Aquino Picardal, Assignee.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Olaa situated at Puna, Island of Hawaii, identified by Tax  
Map Key: 3rd/ 1-6-13: por., as shown on the attached maps labeled Exhibits A and B.

AREA:

8,365 sq ft.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

ENCUMBRANCES:

None in the area, other than the subject easement.

CHARACTER OF USE:

Right, privilege, and authority to construct, use, maintain, and repair the roadway for ingress, egress and utility purposes.

TERM OF EASEMENT:

Perpetual.

AMOUNT PAID FOR EASEMENT:

The original grantee under Grant of Non-Exclusive Easement, Land Office Deed No. S-27,883 made a one-time, lump-sum payment of \$144 for the easement in 1989.

CONSIDERATION:

According to public records, Miller Aquino Picardal acquired the parcel served by the subject easement, TMK: 3rd/ 1-6-13:56, for \$0.00 in 2009. No monetary consideration is being paid for the assignment of the easement rights covered by Land Office Deed No. S-27,883.

RECOMMENDED PREMIUM:

Not applicable. The Grant of Non-Exclusive Easement instrument does not provide for a premium on assignment.

DCCA VERIFICATION:

Not applicable. Assignor and assignee are natural persons and are not required to register with the Department of Commerce and Consumer Affairs.

REMARKS:

At its meeting of November 18, 1988, Item F-5, the Board of Land and Natural Resources approved the direct sale of an easement for access and utility purposes over the subject land to Michael Anthony Soo and Kelly Ann Soo (the Soos) for the benefit of their property identified as Tax Map Key 3rd/ 1-6-13:56 (Parcel 56). See Exhibit A.

The Soos subsequently sold Parcel 56 to William M. Atkins and Rose P. Atkins (together,

Atkins), and at its meeting of January 13, 1989, Item F-3, the Board approved the substitution of Atkins as the grantee under the easement instrument. A Grant of Non-Exclusive Easement under Land Office Deed No. S-27,883 (LOD No. S-27,883) was thereafter executed by the State and Atkins as of June 6, 1991.

At its meeting of September 13, 1991, Item F-1-a, the Board approved the assignment of the LOD No. S-27,883 from Atkins to John Martin Davis (Davis) in conjunction with Atkins' sale of Parcel 56 to Davis. The Chairperson executed the consent to assignment on November 5, 1991.

On September 14, 2009, Davis conveyed Parcel 56 to Miller Aquino Picardal (Picardal). Davis and Picardal now desire to assign LOD No. S-27,883 to Picardal.

LOD No. S-27,883 is an older perpetual easement instrument that requires the Board's approval prior to assignment of the easement. Staff is recommending that LOD No. S-27,883 be amended to state that the easement will run with Parcel 56, provided that subsequent assignees are specifically apprised of the insurance requirement in writing. This will eliminate the need for Board action on future consents to assignment.

Based on staff's present knowledge, Davis is in compliance with all easement terms and conditions without default.

Picardal has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

No agency comments were solicited on the present request since it involves the assignment of an existing grant of easement, and not a new disposition.

RECOMMENDATION:

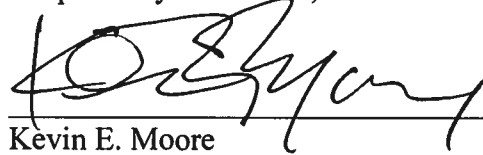
That the Board:

- A. Consent to the Assignment of Grant of Non-Exclusive Easement, Land Office Deed No. S-27,883 from John Martin Davis, Assignor, to Miller Aquino Picardal, Assignee, subject to the following:
  1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
  2. Review and approval by the Department of the Attorney General; and
  3. Such other terms and conditions as may be prescribed by the Chairperson

to best serve the interests of the State.

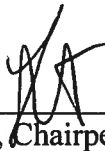
- B. Authorize the amendment of Grant of Non-Exclusive Easement, Land Office Deed No. S-27,883, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: 3rd/ 1-6-13:56, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee under the easement shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
  2. Review and approval by the Department of the Attorney General; and
  3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kevin E. Moore  
District Land Agent

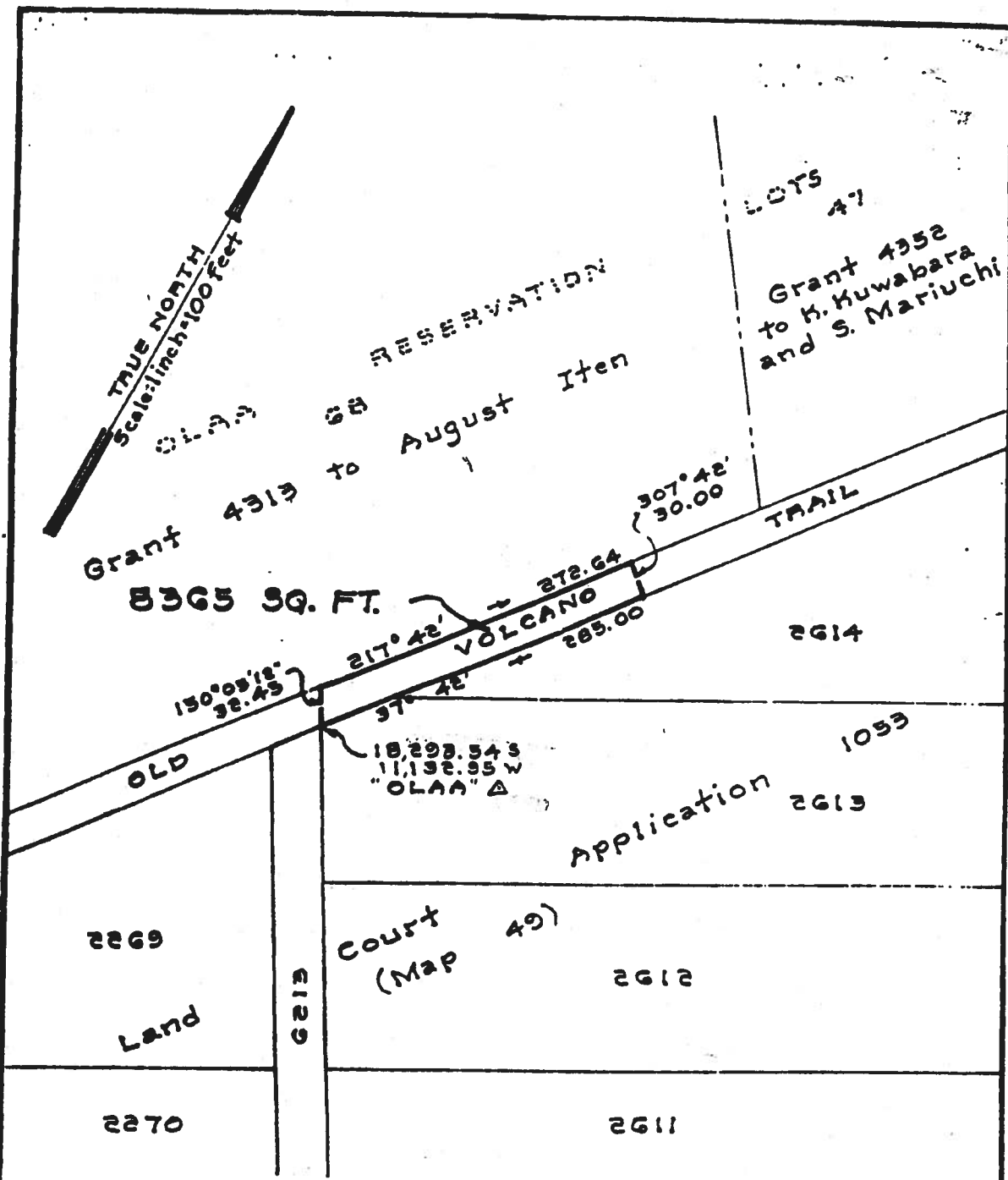
APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson







RECORDED'S MEMO: Legality of Writing, Typing or Printing UNSATISFACTORY  
 If this document when received.

**PERPETUAL NON-EXCLUSIVE  
 ACCESS AND UTILITY EASEMENT**  
 Olaa, Puna, Island of Hawaii, Hawaii  
 Scale: 1 inch = 100 feet

JOB H-961 (89)  
 C. DL